SC-8 (BLANK ENTRY)

THE STATE OF OHIO,
City of Columbus.

19.82.. TERM

To wit: May 26, 1982

Bruce Thomas Phillips, aka William John Haslem,

Petitioner,

vs.

Ronald C. Marshall, Supt.,

Respondent.

No. 82-371

IN HABEAS CORPUS
ON MOTION TO DISMISS.

This cause originated in this court on the filing of a petition for a writ of habeas corpus and was considered in the manner prescribed by law. On consideration thereof, it is ordered by the court that the motion to dismiss be sustained and cause dismissed.

I, THOMAS L. STARTZMAN, Clerk of the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit, from Journal No.....Page.....

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Supreme Court this 26th *day of* May, *19* 82

THOMAS L. STARTZMAN *Clerk.*

By Laura D. Gilkins *Deputy.*

SC-18 BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

THE SUPREME COURT OF THE STATE OF OHIO

THE STATE OF OHIO,
City of Columbus.

19..82.. TERM

To wit: June 23, 1982

Bruce Thomas Phillips, a.k.a.
William John Haslem,
Petitioner,

vs.

Ronald C. Marshall, Supt.,
Respondent.

No. 82-371

REHEARING

It is ordered by the court that rehearing in this case is denied.

FOR YOUR
INFORMATION
ONLY
NOT FOR FILING

I, THOMAS L. STARTZMAN, of Clerk the Supreme Court of the State of Ohio, do hereby certify that the foregoing entry was correctly copied from the records of said Court, to wit, from Journal No.....Page.....

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Supreme Court this...23rd...day of.....June..... 19.82...

THOMAS L. STARTZMAN .....*Clerk.*

By.....*Deputy.*

SUPREME COURT OF OHIO

BRUCE THOMAS PHILLIPS
AKA
WILLIAM JOHN HASLEM

PETITIONER

V

RONALD C. MARSHALL
SUPERINTENDENT
SOUTHERN OHIO CORRECTIONAL
FACILITY

RESPONDENT

CASE NO. 82-371

NOTICE OF APPEAL

Notice is hereby given that BRUCE THOMAS PHILLIPS, Petitioner, above named, appeals to the SUPREME COURT OF THE UNITED STATES from the judgement/order of the SUPREME COURT OF OHIO, entered in this action on May 26, 1982, dismissing case 82-371.

Jurisdiction for the appeal to the SUPREME COURT OF THE UNITED STATES IS invoked under Title 28, United States Code, Section 1257 (1)

Respectfully Submitted,

Bruce Thomas Phillips

BRUCE THOMAS PHILLIPS
being held prisoner as:
William John Haslem #124-110
Box 45699
Lucasville, Ohio 45699-0001

PETITIONER
REPRESENTING HIMSELF
PRO-SE

Simon Karas
ASSISTANT ATTORNEY GENERAL
STATE OFFICE TOWER
30 EAST BROAD STREET
COLUMBUS, OHIO 43215

ATTORNEY FOR
RESPONDENT

FILED
JUN 28 1982
SUPREME COURT OF OHIO
THOMAS L. STARTZMAN, Clerk

PROOF OF SERVICE

I, the undersigned, Bruce Thomas Phillips, hereby certify that a copy of the foregoing petitioner's Notice of Appeal to the Supreme Court of the United States has been served on the Assistant Attorney General for the State of Ohio by placing same in the U.S. Mail, Postage prepaid, addressed to him at State Office Tower, 30 East Broad Street, Columbus, Ohio 43215, this 26 day of June 1982.

Bruce Thomas Phillips

Bruce Thomas Phillips
being held prisoner as:
William John Haslem #124-110
Box 45699
Lucasville, Ohio 45699-0001

STATE OF OHIO)
)
CUYAHOGA COUNTY)

IN THE COURT OF COMMON PLEAS
PROBATE DIVISION

Doc . 680. . . . .
No. . 881867. . .

FILED
JUN 6 1978
CUYAHOGA COUNTY O.

TERRENCE M. HASLEM)
Complainant and Plaintiff)
-vs-)
WILLIAM JOHN HASLEM)
Presumed Decedent and Defendant)
and)
EUGENE M. HASLEM)
Defendant)

JUDGMENT

JOUR 1202

692

JUN 6 - 1978

On this _____ day of _____, 1978, this matter came on for hearing on the complaint of Terrence M. Haslem, and in pursuance of the former order of the court, legal notice and service of summons, or waiver of service of summons having been given as required by law and said former order, and the court being fully advised in the premises from the exhibits and the evidence is satisfied that the legal presumption of death of William John Haslem is made out;

It is therefore ordered by the court that the death of William John Haslem presumed decedent, shall be regarded as having occurred on the 6th day of June, 1978, for all purposes under the law.

PROBATE JUDGE

The State of Ohio, } ss. IN THE PROBATE COURT
CUYAHOGA COUNTY } Division of the Court of Common Pleas

I, FRANCIS J. TALTY, Probate Judge and Ex-officio Clerk of the Probate Court, within and for said County, and in whose custody the Files, Journals and Records of said Court are required by the laws of the State of Ohio to be kept, hereby certify that the foregoing is taken and copied from Journal 1202 page 692 of the proceedings of said Court and that the same has been compared by me with the original entry on said Journal, and is a correct transcript thereof.

In Witness Whereof, I do hereunto subscribe my name and affix the seal of said Court this 2nd day of December, 19 81

Francis J. Talty Probate Judge

By Mary Ann Ohare Deputy Clerk

Doc. 880 No. 881867

Terrence M. Haslem
Complainant and Plaintiff
vs.
William John Haslem
Presumed Decedent and
Defendant and
Eugene H. Haslem, Defendant

CERTIFIED COPY OF SENTENCE

Revised Code Secs. 2949.12—2947.09—2947.23

At a term of the Court of Common Pleas, begun and held at the Court House in CLEVELAND within and for the County of CUYAHOGA and State of Ohio, on the 6th day of September A. D. 19 66

Present, the Hon. John M. Manos Judge.

In the Record and Proceedings of said Court, then and there had, among other things, is the following Judgment and Sentence, to-wit:

THE STATE OF OHIO

vs.

William John Haslem

Indictment for Murder 1st. Degree

R.C. 2901.01

The said William John Haslem having entered a plea of guilty for Murder Second Degree RC 2901.05, as to the Indictment.

~~Having~~ guilty

It is therefore the sentence of the Court that he be imprisoned in the

PENITENTIARY

of this State, and kept at hard labor, (No part of said time to be kept in solitary confinement,) until legally discharged 124110

and that William John Haslem pay the costs of this prosecution, taxed at Eight hundred twenty-seven and 75/100-------($827.75)----------DOLLARS.

I CERTIFY the above to be a true copy of said Judgment and Sentence.

Dept 10-1-44

Given under my hand and the seal of said Court, this 27th day of October, 19 66

m

H.DS.

EMIL J. MASGAY, Clerk.

By A. Adamovich Deputy.

CC 30 751 3147-43

OHIO REVISED CODE 2121. ET. SEQ.,

PRESUMED DECEDENTS' LAW

SS 2121.01 (Presumption of death)
(A) Except as provided in division (B) of this section, a presumption of the death of a person arises:
(1) When the person has disappeared and been continuously absent from his place of last domicile for a five-year period without being heard from during the period;
(2) When the person has disappeared and been continuously absent from his place of last domicile without being heard from and was at the begining of his absence exposed to a specific peril of death, even though the absence has continued for less than a five-year period.
(B) When a person who is on active duty in the armed services of the United States has been officially determined to be absent in a status of "missing" or "missing in action," a presumption of death arises when the head of the federal department concerned has made a finding of death pursuant to the "Federal Missing Persons Act."
80 Stat. 625 (1966), 37 U.S.C. 551, as amended and hereafter amended.
History: v S 349 Eff 9-30-74.

SS 2121.02 (Proceddings in case of presumption of death)
(A) When such a presumption of death arises under section 2121.01 of the Revised Code with respect to a person who at the time of disappearance was domiciled in this state, the attorney general of this state or any person entitled under the last will of such presumed decedent ar under sections 2105.06 to 2105.21 of the Revised Code to any share in the presumed decedents property within this state, or any person or entity who, under the terms of any contract, beneficiary designation, trust, or otherwise, may be entitled to any property, right, or interest by reason of the death of the presumed decedent, may file a complaint setting forth the facts which raise the presumption of death in the probate court of the county of the presumed decedent's last residence.
(B) When a presumption of death arises pursuant to section 2121.01 of the Revised Code with respect to a person who at the time of his disappearance was domiciled at a place other than within the state, and the presumed decedent owns real property within this state, the complaint may be filed in the county where any part of the real property referred to in division (A) of this section, or by any domiciliary executor or administrator of the decedent. A foreign fiduciary shall include with the complaint an exemplified copy of the domiciliary proceedings pursuant to which the foreign fiduciary was appointed.
(C) In the case of a presumed decedent who was domiciled in this state, the complainant shall name as parties defendant the presumed decedent and each of the following that do not join in the complaint:
(2) All persons known to the complainant who are entitled under the presumed decedent's last will and all persons who are entitled under sections 2105.06 to 2105.21 of the Revised Code to any share of the presumed decedent's property.
(3) All persons or entities known to the complainant who have or would have by reason of the presumed decedent's death any right or interest under any contract, beneficiary designation, trust, or otherwise;
(4) All contract obligors known to the complainant whose rights or obligations would be affedted by a determination that the presumed decedent is in fact dead.
(D) In the case of a presumed decedent who was not domiciled this state but who owned real estate in this state, the complain- shall name as parties defendant each of the following that do not join in the complaint:

SS 2121.02 Cont'd.

(1) The presumed decedent's surviving spouse, if any;
(2) All persons known to the complainant who are entitled under the presumed decedent's last will and all persons who are entitled sections 2105.06 to 2105.21 of the Revised Code to any share of the presumed decedent's real property within this state.
(E) All parties defendant, other than the presmued decedent, shall be served with summons in the same manner as provided by the Rules of Civil Procedure.
(F) The complainant shall cause to be advertised once a week for four consecutive weeks in a newspaper published in the county, the fact that the complaint has been filed together with notice that on a day certain, which shall be at least four weeks after the last appearance of the advertisement, or after the final publication where any defendant is being served by publication, whichever is later, the probate court will hear evidence relevent to the allegations of the complaint.
(G) No guardian ad litem, trustee for the suit, or other representative shall be required to be appointed to represent the presumed decedent in the proceeding.
History: 135 v S 349. Eff 9-30-74.

SS 2121.03 (Probate court hearing)
At the hearing the probate court shall hear such legally admissable evidence as offered for the purpose of ascertaining whether the presumption of death is established. No person shall be disqualified to testify by reason of relationship as husband or wife to the presumed decedent, or by reason of an interest in the presumed decedent's property, or because of a right or interest under the terms of a contract, beneficiary designation, trust or otherwise, arising by reason of the death of the presumed decedent.
History: 135 v 349. Eff 9-30-74

SS 2121.04 (Date of decree; marriage dissolved.)
(A) If satisfied that a presumption of death has been established, as provided in section 2121.01 of the Revised Code, the probate court shall so decree.
(B) The death of such presumed decedent shall for all purposes under the law of this state be regarded as having occured as of the date of such decree.
(C) If the presumed decedent is married on the date of the decree the presumed decedent's marriage is dissolved by the decree, as provided in section 2121.08 of the Revised Code, shall affect the dissolution of the marriage.
History: 135 v. S 349. Eff. 9-30-74.

SS 2121.05 (Proceedings for probate of will.)
(A) Except as provided otherwise in Chapter 2121. of the Revised Code, all of the proceedings for the probate of the decedent's will, if any, and all the proceedings, domicilary or ancillary, for the administration of the decedent's estate that are set forth in the Revised Code for use upon the death of a decedent, shall upon the signing of the decree be instituted and carried on in the same manner as if the presumed decedent were in fact dead. All acts pursuant to these proceedings shall be as valid as if the presumed decedent were in fact dead.
(B) Following the decree the court may make such supplementary orders as in its discretion are necessary to consumate any right or interest arising by reason of the death of the presumed decedent under any contract, trust, or other non probate property interest of any person or entity who was a party to the proceedings.

SS 2121.05 Section B cont'd.

The court may condition the granting of any such order by requiring any person or entity who would benefit thereby to furnish bond for a three-year period after the decree in the form and amount, with or without sureties, as the court shall order. If any supplementary order is directed to the holder of assets of the presumed decedent which were created by the decree of presumed death, the court, at the request of the party defendant to whom the order is directed, shall condition the granting of any such order by requiring any person or entity who would benefit thereby to furnish a suretyship bond for a three-year period after the decree in the amount of the assets so created by the decree with interest for the period of the bond at the rate specified in the order.

(C) The term "assets" of the presumed decedent which were created by the decree of presumed death" as used in division (B) of this section and division (D) of section 2121.08 of the Revised Code, means those potential assets of the presumed decedent in which the presumed decedent had a contractual or other right, contingent upon the presumed decedent's death, to have such assets paid to his designee and the decree of presumed death would fulfill the contingency. Only that portion of the proceeds of life insurance policies on the life of the presumed decedent that exceeds any net cash surrender value of such policies on the date of the decree is within the definition of the term "assets of the presumed decedent which were created by the decree of presumed death."

(D) The bond shall provide that, if within the three-year period after the decree is entered by the court it is established that the presumed decedent is alive, such person or entity shall on the subsequent order of the court refund or return any sums, with interest as provided in the court order, or property received by virtue of such order, to the presumed decedent or to the person or entity who, by reason of erroneous finding of death of the presumed decedent made such payment or delivered such property. The bond shall be furthur conditioned on returning the fair value of the property if the same shall have been sold or otherwise disposed of in the interim.

(E) If the person or entity who would benefit by an order, as provided in division (B) of this section, fails to provide a bond for the amount of the assets of the presumed decedent which were created by the decree, with interest as specified in the order, the holder shall hold those assets for the three-year period they would have been bonded. In that event, the holder shall pay interest at the same rate specified in the order as a condition of the bond and the interest shall accumulate and be held throughout that period.

(F) Nothing in this section shall preclude such person or entity from selling, encumbering, or otherwise disposing of any property so received and any purchaser, transferee or mortgagee acquired good titles to such property free and clear of any claim of the presumed decedent.

History: 135 v S 349 Eff. 9-30-74.

SS 2121.06 (Decent of real estate.)
Upon signing of the decree establishing the death of the presumed decedent, the real estate of the presumed decedent passes and desolves as in the case of actual death and the persons entitled by will, or under sections 2105.01 to 2105.21 of the Revised Code, may enter and take possession. Persons taking the real estate may sell or mortgage it and the purchaser or mortgagee takes a good title, free and discharged of any interest or claim of the presumed decedent. The persons taking such real estate shall not sell, convey, or mortgage any part thereof within the three-year period specified in section 2121.08 of the Revised Code without first giving bond in an amount to be fixed by the probate court and with sureties to be approved by the court. In the discretion of the court the bond may be taken without sureties. Such bond shall be conditioned to account for and pay over to the presumed decedent, in case within the three-year period after the decree is entered by the court it is established that the presumed decedent is still alive, the value of the real estate sold or conveyed, or in the case of the making of a mortgage, to pay the amount of the mortgage and interest thereon, or in case of a foreclosure of such mortgage, to account for and pay over the value of the real estate mortgaged.
History: 137 v S 112 Eff. 11-1-77.

SS 2121.07 (Bond required for estate distribution)
(A) Before any distribution of personal property is made from the estate of a presumed decedent, the persons entitled to receive such property may in the discretion of the court and as a condition of distribution be required to give bond in the form and amount, with or without sureties, as the court orders, with the condition that if within a three-year period after the decree is entered by the court it is established that the presumed decedent is alive, the distributee will upon subsequent order of the court refund or return the property to the presumed decedent, or the fair market value of property of the same shall have been sold or otherwise disposed of in the interim.
(B) Nothing in this section shall preclude a distributee from selling, encumbering, or otherwise disposing of any property so distributed and any purchaser, transferee, or mortgagee acquires good title to such property free and clear of any claim of the presumed decedent.
History: 135 v S 349 Eff. 9-30-74.

SS 2121.08 (Administration of estate when decree vacated.)
(A) The probate court may at any time within a three-year period from the date of the decree establishing the death of a presumed decedent, upon proof satisfactory to the court that the presumed decedent is in fact alive, vacate the decree establishing the presumption of his death. After the decree has been vacated all the powers of the executon or administrator of the presumed decedent cease, but all proceedings had and steps taken with respect to the administrator of the presumed decedent prior to the vacating of such decree remain valid. The executor or administrator of the estate of such presumed decedent who is found to be alive shall settle his account of his administration down to the time of the vacating of the decree and shall transfer all assets remaining in his hands to the person as whose executor or administrator he has acted, or to such person's authorized agent or attorney.
(B) The title of any person to any money, property, right, or interest as surviving spouse, next of kin, heir, legatee, devisee, co-owner, with right of survivorship, beneficiary or other contractual payee, successor to a trust interest, or otherwise of the presumed decedent shall be subject to this section, and upon vacating of such decree as provided in this section any property, money, right, or interest, or the fair value thereof if the same shall have been sold or otherwise disposed of, may be recovered from the person who had received any such property.
(C) Except as provided in division (D) of this section, in any action against a beneficiary for the recovery of property of the value thereof, or upon the bond given as conditioned for delivery of money, other personal property, or sale or encumbrance of real property the beneficiary may set off as against such claim, an allowance for services rendered in maintaining of the property, and for any moneys or other considerations made or given by the beneficiary for the preservation, care, or maintenance of the property during the period of absence of the person erroneously presumed to be dead, and the reasonable value of any part of the property used for support by those whom the person erroneously presumed to be dead had a legal obligation to support during his absence.
(D) There shall be no set off as against those assets defined in division (C) of section 2121.05 of the Revised Code to be assets of the presumed decedent which were created by the decree of presumed death shall be returned with interest to the person entitled thereto.
(E) Any net cash surrender value on any policies of life insurance on the life of a person erroneously presumed to be dead are subject to the set off provision in division (C) of this section. The person erroneously presumed to be dead, or persons claiming under him, may recover whatever remains of cash values from the person to whom paid. Such claimants have no recourse against the insurance company which made such payments, and it is discharged from liability on the policies affected.
History: 137 v S 112 Eff. 11-1-77.

2121.09 (Presumed decedent may be substituted as plaintiff or defendant.)

After vacation of the decree of the presumption of death has been established, as provided by section 2121.08 of the Revised Code, the person erroneously presumed to be dead may, on motion filed of record stating the facts, be substituted as plaintiff or petitioner in all actions or proceedings brought by the executor or administrator, whether prosecuted to judgement or decree or otherwise. Such person may, in all actions or proceedings previously brought against the executor or administrator, be substituted as defendant or respondent, on motion filed by him or on his behalf, but shall not be compelled to go to trial in less than three months from the time of filing of such motion. Judgements or decrees recovered against the executor or administrator, before the vacation of the decree, may be opened on application made by the person erroneously presumed to be dead within three months after the vacating of the decree, provided it is supported by an affidavit alleging the existance of facts which would be a valid defense. If the application is not made within the three months or is made but the supporting alleged facts are adjudged an insufficient defense, the judgement or decree is conslusive to all intents, saving the defendant's right to review as in other cases on appeal.

History: 135 v S 349. Eff 9-30-74.

The judgement/decree (A.4) decreeing the legal death of William John Haslem for all purposes under Ohio law is prime facie evidence of the legal death of that person as the following supports:

Under Ohio Revised Code sec. 2121.04 A (A.7)

> "If satisfied that a presumption of death has been established, as provided in sec. 2121.01 of the Revised Code the probate court shall so decree."

On 6/6/78 a legal presumption of death of William John Haslem had been established under Ohio law, and the Common Pleas Ct. of Cuyahoga Cnty. so decreed (A.4)

Under Ohio Revised Code sec. 2121.04 B (A.7)

> "The death of such presumed decedent shall for all purposes under the law of this state be regarded as having occurred as of the date of such decree."

The judgement/decree (A.4) clearly states that William John Haslem is dead for all purposes under the law.

Under Ohio Revised Code sec. 2121.05 A (A.7)

> "All acts pursuant to these proceedings shall be as valid as if the presumed decedent were in fact dead."

The judgement/decree, decreeing the legal death of William John Haslem (A.4) for all purposes under the law of Ohio, was an act pursuant to the proceedings in the Cuyahoga Cnty. Common Pleas Court which the legal presumption of the death of that person was established.

Under Ohio Revised Code sec. 2121.08 A (A.10)

> "The probate court may at any time within a three/year period from the date of the decree establishing the death of a presumed decedent, upon proof satisfactory to the court that the presumed decedent is in fact alive, vacate the decree establishing the presumption of his death."

The judgement/decree, decreeing William John Haslem legally dead for all purposes under the law of the state of Ohio (A.4) was unvacatable as of 6/6/81.

As the above shows, the judgement/decree, decreeing William John Haslem legally dead, (A.4) is final and unvacatable, and as such, is PRIME FACIE evidence of the legal death of William John Haslem, and this judgement/decree (A.4) is res judicata as the following supports:

Morris v Jones, Ill., 1947, 67 S.Ct. 451

> "a judgement of court having jurisdiction of parties and subject matter operates as res judicata, in absence of fraud or collusion, even if obtained upon default.

CHAPTER 2725
HABEAS CORPUS

2725.01 Persons entitled to writ of habeas corpus.
Whoever is unlawfully restrained of his liberty, or entitled to the custody of another, of which custody such person is unlawfully deprived may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment, restraint, or deprivation.

2725.02 Courts authorized to grant writ.
The writ of habeas corpus may be granted by the supreme court, court of appeals, court of common pleas, probate court, or by a judge of any such court.

2725.03 Jurisdiction for production or discharge of inmate of institution.
If a person restrained of his liberty is an inmate of a state benevolent or penal institution, the location of which is fixed by statute, and at the time is in the custody of the officers of such institution, no court or judge other than the courts or judges of the county in which such institution is located has jurisdiction to issue or determine a writ of habeas corpus for his production or discharge. Such writ issued by a court or judge of another county to an officer or person in charge of another county to an officer or person in charge at such state institution to compel the production or discharge of an inmate thereof is void.

2725.04 Application for writ.
Application for the writ of habeas corpus shall be by the petition, signed and verified either by the party for whose relief it it intended, or by some person for him, and shall specify:
(A) That the person in whose behalf the application is made is imprisoned, or restrained of his liberty;
(B) The officer, or name of the person by whom the prisoner is so confined or restrained; or, if both are unknown or uncertain, such officer or person may be described by an assumed appellation and the person who is served with the writ is deemed the person intended;
(C) The place where the prisoner is so imprisoned or restrained, if known;
(D) A copy of the commitment or cause of detention of such person shall be exhibited, if it can be procured without impairing the effeciency of the remedy; or, if the imprisonment or detention is without legal authority, such fact must appear.

2725.05 Writ not allowed.
If it appears that a person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or magistrate, or by virtue of the judgement or order of the court of record, and that the court or magistrate had jurisdiction to issue the process, render the judgement, or make the order, the writ of habeas corpus shall not be allowed. If the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgement, or order.

2725.06 Writ must be granted.
When a petition for a writ of habeas corpus is presented, if it appears that the writ ought to issue, a court or judge authorized to grant the writ must grant it forthwith.

2725.07 Clerk shall issue writ.
When a writ of habeas corpus is granted, the clerk of the court which granted the writ shall forthwith issue said writ under the seal of such court. In case of emergency, the judge who allowed the writ may issue it under his own hand, and députe any officer or other person to serve it.

2725.08 Designation of prisoner.
Ther person to be produced upon a writ of habeas corpus shall be designated by his name, if known, and if his name is not known, or is uncertain, such person may be described in any other way so as to ma ke known who is intended.

2725.09 Requisites of writ.
In case of confinement, imprisonment, or detention of a person by an officer, a writ of habeas corpus shall be directed to him, and command him to have such person before the court or judge designated in the writ, at a time and place therein specified.

2725.10 Form of writ when prisoner not in custody of an officer.
In case of confinement, imprisonment, or detention by a person not an officer, the writ of habeas corpus, shall be in the following form:

The State of Ohio, _____ County, ss.:
To the sheriff of our several counties, Greeting:
We command you that the body of _____ of _____, by _____, of _____, imprisoned and restrained of his liberty, as it is said, you take and have before _____ a judge of our _____ court, or, in the case of his absence or disability, before some other judge of the same court, at _____, forthwith to do and receive what our said judge shall then and there consider _____ concerning him in his behalf; and summon the said _____ then and there to appear before our said judge, to show the cause of the taking and detention of said _____.
(SEAL) Witness _____, at _____, this _____ day of _____, in the year _____.

2725.11 Service of writ.
The writ of habeas corpus may be served in any county by the sheriff of that or any other county or by a person deputed by the court or judge issuing the writ.

2725.12 Execution and return of writ.
The officer of person to whom a writ of habeas corpus is directed shall convey the person im-prisoned or detained, and name in the writ, before the judge granting the writ, or, in case of his absence or disability, before some other judge of the same court, on the day specified in the writ. Said officer or person shall make due return of the writ, together with the day and the cause of the caption and detention of such person, according to its command.

2725.13 Return of writ to another judge.
When a writ of habeas corpus is issued by a court in session, if the court has adjourned when the writ is returned, it shall be returned before any judge of the same court. When the writ is returned before one judge, at a time when the court is in session, he may adjourn the case into the court, there to be heard and determined.

2725.14 Contents on the return.
When the person to be produced under a writ of habeas corpus is imprisoned or restrained by an officer, the person who makes the return shall state therein, and in other cases the person in whose custody the prisoner is found shall state, in writing, to the court or judge before whom the writ is returnable, plainly and unequivocally:
(A) Whether or not he has the prisoner in his custody or power or under restraint.
(B) If the prisoner is in his custody or power or under restraint, he shall set forth, at large, the authority, and the true and whole cause, of such imprisonment and restraint, with a copy of the writ, warrant, or other process upon which the prisoner is detained.
(C) If such prisoner was in his custody or power or under restraint, and such custody or restraint was transferred to another, he shall state particularly to whom, at what time, for what cause, and by what authority such transfer was made.

2725.15 Return must be signed and sworn to.
The return or statement referred to in section 2725.14 of the revised code shall be signed by the person who makes it, and shall be sworn to by him, unless he is a sworn public officer and makes the return in his official capacity.

2725.16 Continuance of cause.
The court or judge to whom a writ of habeas corpus is returned, or the court into which it is adjourned, for good cause shown, may continue the cause, and, in that event, shall make such order for the safe keeping of the person imprisoned or detained as the nature of the case requires.

2725.17 Discharge of prisoner.
When the judge has examined the cause of caption and detention of a person brought before him as provided in section 2725.12 of the revised code, and is satisfied that such person is unlawfully imprisoned or detained, he shall forthwith discharge such person from confinement. On such examination, the judge may disregard matters of form or technicalities in any mittimus or order of confinement by a court or orricer authorized by law to commit.

2725.18 Prisoner may be committed or let to bail.
When the person brought before a judge under section 2725.12 of the revised code is confined or detained in a legal manner on a charge of having committed a crime or offense which is bailable, the judge may recommit him or let him to bail. If such person is let to bail, the judge shall require him to enter into a recognizance, with sufficient surety, in such sum as the judge finds reasonable, after considering the circumstances of the prisoner and the nature of the offence charged, and conditioned for his appearance at the court where the offence is properly cognizable. The judge forthwith shall certify his proceedings, together with any recognizance, to the proper court. If the person charged fails to give such recognizance, he shall be committed to prison by the judge.

2725.19 Mandatory committment for capitol offence.
If a prisoner brought before a judge under section 2725.12 of the revised code was committed by a judge, and is plainly and specifically charged in the warrant of committment with a felony the punishment for which is capitol, he shall not be removed, discharged, or let to bail.

2725.20 Return as evidence or pledge.
If a prisoner brought before a judge under section 2725.12 of the revised code is in custody under a warrant or committment in pursuance of law, the return of the writ of habeas corpus is prima facie evidence of the cause of detention. If such prisoner is restrained of his liberty by alleged private authorisy, the return is only a plea of the facts therein set forth, and the party claiming the custody shall be held to make proof of such facts. Upon the final disposition of a case, the court or judge shall make such order as to costs as it requires.

2725.21 Forfeiture by clerk for refusal to issue writ.
A clerk of a court who refuses to issue a writ of habeas corpus, after an allowance of such writ and a demand therefore, shall forfeit to the party aggrieved the sum of five-hundered dollars.

2725.22 Failure to obey writ.
No person to whom a writ of habeas corpus is directed shall neglect or refuse to obey or make return of it according to the command thereof, or make a false return or upon demand made by the prisoner, or by any person on his behalf, refuse to deliver to the person demanding, within six hours after demand therefore, a true copy of the warrant of committment and detainer of the prisoner.
Whoever violates this section shall forefit to the party aggrevied two-hundered dollars for a first offence; for a second offence such person shall forefit four-hundered dollars, and, if an officer, shall be incapable of holding his office.

2725.23 Persons at large upon writ not to be again imprisoned.
A person who is set at large upon a writ of habeas corpus shall not be imprisoned again for the same offence, unless by the legal order or process of the court in which he is bound by recognizance to appear, or other court having jurisdiction of the cause or offence.
No person shall knowingly, contrary to sections 2725.01 to 2725.28, inclusive, of the revised code, recommitt, imprison, or cause to be recommitted or imprisoned, for the same offence, or pretended offence, a person so set at large, or knowingly aid or assist therein.
Whoever violates this section shall forefit to the party aggrieved five-hundered dollars, notwithstanding any colorable pretense or variation in the warrant or committment.

2725.24 Prisoner shall not be removed from custody of one officer to another.
A person committed to prison, or in the custody of an officer for a criminal matter, shall not be removed therefrom into the custody of another officer, unless by legal process, or unless the prisoner is delivered to an inferior officer to be taken to jail, or, by order of a proper court, is removed from one place to another within this state for trial, or in case of fire, infection, or other necessity.
A person who, after such committment, makes, signs, or countersigns a warrent for such removal contrary to this section, shall forfeit to the party aggrieved five-hundered dollars.

2725.25 No prisoner to be sent out of state.
No person shall be sent as a prisoner to a place out of this state, for a crime or offence committed within it.
A person imprisoned in violation of this section may maintain an action for false imprisonment against the person by whom he was so imprisoned or transported and against a person who contrives, writes signs, seals, or countersigns a writing for such imprisonment or transportation, or aids or assists therein.

2725.26 Record of writs.
The proceedings upon a writ of habeas corpus must be recorded by the clerk of the court in which such proceedings were had, and may be reviewed on appeal as in other cases.

2725.27 Recovery of forfeitures; limitations.
The forfeitures mentioned in sections 2725.21 to 2725.24, inclusive, of the revised code, may be recovered by the party aggrieved or his executors or administratiors against the offender or his executors or administrators by civil action in a court having cognizance thereof.
Actions for violations of sections 2725.21 to 2725.25, inclusive, of the revised code, shall be brought within two years after the offence is committed, except in cases of imprisonment of the party aggrieved, when action may be brought within two years after his delivery out of prison, or after his decease if he dies in prison.

2725.28 Fees and costs.
The fees of officers and witnesses shall be taxed by the judge, on return of the proceedings on a writ of habeas corpus, and collected as a part of the original cost in the case. When the prisoner is discharged, the costs shall be taxed to the state, and payed out of the county treasury, upon the warrant of the county auditor. No officer or person shall demand payment in advance for any fees to which he is entitled by virtue of the proceedings, when the writ is demanded or issued for the discharge from custody of a person confined under color of proceedings in a criminal case. When a person in custody by virtue or under color of proceedings in a civil case is discharged, costs shall be taxed against the party at whose instance he was so in custody. If he is remanded to custody, costs shall be taxed against him.

IN THE SUPREME COURT OF THE UNITED STATES

Bruce Thomas Phillips being held prisoner as William John Haslem — Petitioner Appellant

-v-

Ronald C. Marshall, Supreintendent, Southern Ohio Correctional Facility — Respondent Appellee

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The Petitioner Appellant, Bruce Thomas Phillips, being held prisoner in the name of William John Haslem, asks leave to file the attached jurisdictional statement without prepayment of costs and to proceed in forma pauperis. Petitioner-Appellant has not previously requested leave to proceed so in the Ohio Supreme Court.

Petitioner-Appellant's affidavit in support of this mation is attached hereto.

Bruce Thomas Phillips

Bruce Thomas Phillips

AFFIDAVIT

I, Bruce Thomas Phillips, being first duly sowrn according to law, depose and say that I am the petitioner-Appellant in the above case; that in support of my motion to proceed without being required to prepay fees, costs, or give security therefor; I state that because of my poverty, I am unable to pay the costs of said case or to give security therefor; and that I believe I am entitled to redress.

I further swear that the responses which I hame made to the questions and instructions below relating to my ability to pay the costs of proceeding in this court are true.

1. Are you presently employed. No. I am a church minister of God and Christ and at the time of my arrest on 7/10/81 my occumpation was as such & I worked for no wages or salary.

2. Have you received within the past twelve months any income, from a business, profession, or other form of self-employment, or in the form of rent payments, interest, dividends, or other source? No. I have received no income from any source.

3. Do you own any cash or checking or savings account? Yes, only the monies on deposit in my prison account in the amount of $29.44.

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings, and clothing)? No.

5. List the persons who are dependent upon you for support and state your relationship to those persons. None.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Bruce Thomas Phillips

Bruce Thomas Phillips
Pro-Se & Forma Pauperis

W. J. Haslem

being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

Subscribed and Sworn to Before me this 20 day of July 1982

Paul R. Adams

Notary Public
PAUL R. ADAMS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES MAY 23, 1983

NOTARIAL SEAL
STATE OF OHIO

(I was required to affix the name W. J. Haslem to this document against my wihhes

Bruce Thomas Phillips

A16

W. J. Haslem
124110

WARDENS CERTIFICATE

Inmate William John Haslem #124-110 has in his personal account at Southern Ohio Correctional Facility the amount of $79.44, this 20 day of July 1982

SWORN AND SUBSCRIBED BEFORE ME THIS: 7-20-1982

Authorized officer

PAUL N. ADAMS
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES MAY 23, 1983

NOTARIAL SEAL
STATE OF OHIO

(I was required to affix the name W. J. Haslem to this document against my wishes

A 17

Bruce Travis Phillips

RECEIVED
SEP 13 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Clerk of The Court
Supreme Court of The United States
1 First Street N.E.
Washington, D.C. 20543

September 7, 1982

RE: Case # 82-5105

Attention Clerk of The Court

Dear Sir;

Should, after the Court considers my jurisdictional statement, the Court either note or postpone probable jurisdiction, I request that I be permitted to submitt my own BRIEF ON THE MERITS in accordance with Rule 46.6 and if an attorney is assigned for oral argument, such attorney be permitted to only supplament my brief and not delete any part thereof unless I authorize any deletions in writing.

Also, after consideration of the jurisdictional statement, the Courrt either notes or postpones jurisdiction and sees fit to assign an attorney to me for oral argument, I humbly request that the attorney not come from Ohio. Kentucky or West Virginia would be great or any other place. I understand I have no choice in this matter, this is just a request. I will be sincerely greatful for whatever consideration the Court deems fit.

Enclosed please find a copy of the letter which I sent to the Clerk of The Ohio Supreme Court requesting CERTIFICATION & TRANSMISSION of the entire Record to this court for consideration along with the jurisdictional statement. I feel that it is absolutely necessary and essential for a proper understanding of this case when the court considers the merits of the jurisdictional statement. I have made the request for cert. & transmission pursuant to Rule 13.1 of this courts rules, however, I am proceeding prose & forma pauperis and my motion to proceed under forma pauperis has not yet been granted by the court and because I have not yet been granted leave to proceed in forma pauperis the Ohio Supreme Ct. may not certify & transmitt the record, and my case may be prejudiced as a result-as I deem it absolutely essential that the court have before it the complete record from below in its consideration of the jurisdictional statement.

I would be greatful if you could urge Ohio Supreme Ct. Clerk to Certify & transmit the entire record..

Respectfully,
Bruce Thomas Phillips

Bruce Thomas Phillips
Petitioner/Appellant Pro/Se & Forma Pauperi
being held prisoner as:
William John Haslem #124-110
Box 45699
Lucasville, Ohio 45699-0001

The Clerk of The Court
Ohio Supreme Court
State Office Tower
30 East Broad Street
Columbus, Ohio 43215

Sept 7, 1982

Re: CERTIFICATION & TRANSMISSION
of the entire record in:
OHIO SUPREME CT. CASE# 82-371
which was docketed on 3/8/82

REQUEST FOR TRANSMISSION
OF ENTIRE RECORD TO THE
SUPREME COURT OF THE
UNITED STATES

To:

Clerk of The Court
Supreme Court of the United States
1 First St. N.E.
Washington, D.C. 20543

to be filed in U.S. S. Ct.
along with the other papers in
case # 82-5105

Phillips- Appellant
-v-
Marshall- Appellee

Attention Clerk of The Court

Dear Sir;

Please certify & transmit the entire record in Ohio Supreme Court Case # 82-371 to the Clerk of the Court, Supreme Ct. of The U.S, for filing in that courts case # 82-5105.

I am the appellant & am proceeding pro-se & forma pauperis on appeal in the above case in the U.S. Supreme Ct., and the entire record is absolutely essential for the proper understanding of the case by the U.S. Supreme Ct. in considering the jurisdictional statement.

The jurisdictional statement was filed along with the motion for leave to proceed in forma pauperis as prescribed under 28 USC 1915 in the U.S. Supreme Ct. and docketed on July 23, 1982 as case # 82-5105 in the United States Supreme Ct.

The entire record will consist of:

1. The original petition for writ of habeas corpus.
2. Motion for leave to proceed in habeas corpus on type-written forms & carbon copies.
3. Petitioners Motion to Dispense with requirement of presentation of evidence.
4. Respondent Marshall's Motion to Dismiss.
5. Petitioner's Brief in opposition to respondent's Motion to Dismiss.
6. Order of Dismissal of case # 82-371.
7. Petitioner's Motion to Reconsider.
8. Order dismissing Motion for rehearing.
9. Copy of Notice of Appeal.

The entire record is absolutely essential for the proper understanding of the case by the U.S. Supreme Ct. in considering the jurisdictional statement and would gladly pay for your service of certification and transmission but as my funds are exhausted, I cannot do so and I have had to proceed on appeal in forma pauperis.

Respectfully,
Bruce Thomas Phillips
Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

being held prisoner at:
William John Haalem #124-110
Box 45699
Lucasville, Ohio, 45699-0001

COPY OF LETTER SENT TO CLERK OF THE COURT OF THE OHIO SUPREME COURT

PROOF OF SERVICE

I Bruce Thomas Phillips swear, under penalties of perjury, that I have sent copies of this letter to: Simon B. Karas, Attorney for the Respondent addressed to him at State office Twr. 26th flr. 30 E. Broad St, Columbus, Ohio 43215 (CONT'D ON BACK)

PROOF OF SERVICE CONT'D

and, The Clerk of The Court
Supreme Court of The United States
1 First St. NE
Washington, D.C. 20543
by placing copies of this letter in a envelope, addressed to them, with first class postage-pre-paid, and depositing same in the United States Mails at Lucasville, Ohio on this 8 day of September, 1982.

Bruce Thomas Phillips

Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

No. 82-5105

RECEIVED
JUL 23 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

BRUCE THOMAS PHILLIPS
BEING HELD PRISONER IN NAME OF:
WILLIAM JOHN HASLEM — Petitioner Appellant

v

RONALD C. MARSHALL
SUPERINTENDANT
SOUTHERN OHIO CORRECTIONAL
FACILITY — Respondent Appellee

ON APPEAL FROM THE SUPREME COURT OF OHIO

MOTION FOR LEAVE TO PROCEED ON APPEAL ON TYPE-WRITTEN FORMS

William J. Brown
Attorney General

Simon B. Karas
Assistant Attorney General
State Office Tower, 26th Flr.
30 East Broad Street
Columbus, Ohio 43215
614/466-5414

Attorney For Respondent

Bruce Thomas Phillips
being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

Petitioner Appellant
Representing Himself
Pro-Se & Forma Pauper

Comes the Petitioner-Appellant, Bruce Thomas Phillips and moves this Court for leave to proceed on this appeal on type written forms pursuant to this Courts Rule 46.3.& 39

Appellant, in support of this motion, represents that he is unable, due to his poverty and inprisonment, to have his briefs and other papers printed in standard form as required by the Rules of this Court.

Respectfully submitted,

Bruce Thomas Phillips

Bruce Thomas Phillips
Petitioner-Appellant
Pro-Se & Forma Pauperis

being held prisoner as
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001

No._____

RECEIVED
JUL 23 1982
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1981

Bruce Thomas Phillips — Petitioner-Appellant
Being held prisoner as:
William John Haslem

-v-

Ronald C. Marshall — Respondent-Appellee
Superintendant
Southern Ohio Corrictional
Facility

ON APPEAL FROM THE SUPREME COURT OF OHIO

MOTION TO DISPENSE WITH REQUIREMENT OF COLORED COVERS

William J. Brown
Attorney General

Simon B. Karas
Assistant Attorney General
State Office Tower 26th Flr.
30 East Broad Street
Columbus, Ohio 43215
614/466-5414

Attorneys for Respondent

Bruce Thomas Phillips
Being held prinsoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio 45699-0001

Petitioner Appellant
Pro-Se & Forma Pauperis

Comes the Petitioner-Appellant and requests this court to dispense with the requirement under rule 33.2 (b) to have colored covers attached on documents submitted to this court.

Memorandum in Support

Petitioner-Appellant due to his poverty and imprisonment and the unavailiability of colored paper at the prison where he is confined motions this court to grant his request to dispense with requirement of colored covers on his documents submitted to this court by him as required under rule 33.2 (b) and he be permitted to use white paper as covers to documents he submitts.

Petitioner-Appellant so prays this court that his Motion to Dispense With Colored Covers be granted by this court.

Respectfully submitted,

Bruce Thomas Phillips

Bruce Thomas Phillips
Being held prisoner as:
William John Haslem
#124-110
Box 45699
Lucasville, Ohio
45699-0001